IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5575 of 2007()

CRIME NO. 194/07 OF VELLARADA POLICE STATION

PETITIONERS/ACCUSED 1 AND 2

---

1. RATHEESH,VATTAVILA PUTHENVEEDU,
KORANAMKODU, KOTTAIKKAL PO.

2. BINUKUMAR,LAKSHMI BHAVAN,
ELANKKATHARAPUTHENVEEDU,
AANAVOOR, AANAVOOR PO.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR

RESPONDENTS:

THE S.I. OF POLICE,
VELLARADA POLICE STATION,REPRESENTED BT
THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 5575 of 2007

- -

Dated this the 17th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 and 2. They along with the co-accused i.e. A3, face allegations, inter alia, under Sections 452 and 354 I.P.C. According to the learned counsel for the petitioners, the petitioners are absolutely innocent. They may be granted anticipatory bail, it is prayed.

2. The learned Prosecutor opposes the application. There are only three accused persons. The third accused has already been arrested. Investigation is complete. Final report has already been filed. The police do not want to arrest the petitioners. It is for the petitioners to surrender before the learned Magistrate and seek regular bail in the ordinary course. There are no circumstances justifying or warranting the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C., submits the learned Prosecutor.

4. Having considered all the relevant inputs, I am satisfied that there are no features in this case which can justify or warrant the

invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioners appear before the Investigating Officer or the learned Magistrate having jurisdiction and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

tm